

Order

Michigan Supreme Court
Lansing, Michigan

September 26, 2008

Clifford W. Taylor,
Chief Justice

136204

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 136204
COA: 275687
Wayne CC: 06-007700-01

ANTHONY DESHAWN DOZIER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the March 25, 2008 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

CAVANAGH, J., would grant leave to appeal.

KELLY, J. (*dissenting*).

I would grant leave to appeal the March 25, 2008, judgment of the Court of Appeals to consider whether defendant was deprived of a fair trial by the prosecution's violation of MCR 6.201(B)(3). The prosecution violated the rule by failing to disclose defendant's July 26, 2006, statement to the defense until it was used to impeach him during cross-examination at trial. The record suggests that the statement was obtained in violation of defendant's Sixth Amendment right to counsel because counsel was not present when the statement was made. Also, there is no evidence of a valid waiver of counsel's presence, even though defendant had been arraigned and counsel had been appointed when the statement was obtained. It therefore appears that the prosecution's belated disclosure of the post-arraignment statement deprived defendant of a fair trial.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 26, 2008

Corbin R. Davis

Clerk